THE HON'BLE SRI JUSTICE B. SUDERSHAN REDDY

AND

THE HON'BLE SRI JUSTICE S. ANANDA REDDY

Date: 05—09—2005

W.P. No. 19590 of 2005

Between:

The Ex-Servicemen Association, Thadepalligudem,

Rep. By its President G. Satya Krupa Raju.

…Petitioner.

A n d

The Government of Andhra Pradesh,

Rep. By the Secretary, Municipal Administration

And Urban Development (TC), Department of A.Prosecution

Secretariat, Hyderabad and two others.

…Respondents.

THE HON'BLE SRI JUSTICE B. SUDERSHAN REDDY

AND

THE HON'BLE SRI JUSTICE S. ANANDA REDDY

W.P. No. 19590 of 2005

O R D E R: (per Sri B. Sudershan Reddy, J)

The petitioner in this writ petition is challenging the action of the 3rd respondent – Commissioner, Thadepalligudem Municipality in issuing the demand notice dated 26.4.2005 for payment of property tax under the provisions of Schedule II of A.P. Municipalities Act, 1965.

The petitioner claims to be the President of Ex-Servicemen Association. According to the averments, all the Ex-Servicemen including the deponent of the affidavit are entitled for the benefit issued by the Government under G.O.Ms.No.83, M.A. dated 15.3.1997, which clearly exempts the Ex-Servicemen and their widows from payment of property tax, provided the property continues to be under the self occupation. The petitioner asserts that immediately on receipt of demand notice, he submitted a detailed representation dated 20.6.2005 to the 3rd respondent, claiming the benefit of exemption under the said G.O.

The gravamen of the complaint in the instant writ petition relates to inaction on the part of the 3rd respondent – Commissioner in considering the case of the members of the petitioner-Association, including that of the President, who is the deponent of the affidavit in this writ petition, and insisting for payment of property tax.

We have perused G.O.Ms.No. 83 dated 15.3.1997, which undoubtedly exempts the Ex-Servicemen, widows of Ex-Servicemen and also serving Army Personnel from payment of property tax, subject to the following conditions:

i. Self-occupation: House should be occupied by him/her. In case of serving army personnel, the house should be occupied by members of his family when he is on duty at borders.

ii. One building/site only: Only one house/property whichever the Ex.Servicemen/widow/serving army personnel chooses alone shall be considered for exemption".

It is, therefore, clear that in each case the Commissioner is required to examine as to whether the Ex-Serviceman satisfies and fulfils the requirements referred to hereinabove and only then, proceed to demand the property tax. It is needless to observe that if the Ex-Servicemen satisfy and fulfil the conditions stipulated in G.O.Ms.No.83 dated 15.3.1997 referred to hereinabove, they are entitled for grant of such exemption.

In the circumstances, this writ petition is disposed of directing the respondents herein to consider the representation/objection dated 20.6.2005 made by the petitioner and examine the case of each of the Ex-Servicemen in the light of the G.O. referred to hereinabove and pass a speaking order before giving effect to the demand notice. That an appropriate decision in this regard shall be taken within two months from the date of receipt of a copy of this order. It is needless to direct that until such decision is taken, the 3rd respondent – Commissioner shall not give effect to the impugned demand notice.

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B. Sudershan Reddy, J.

_____ **S. Ananda Reddy, J.**

Date: 05—09—2005.

Note:

C.C. by tomorrow.

(B/O)

MVB.